

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

JUL 16 2008

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

KOSE LASALLE,

Defendant - Appellant.

No. 07-10464

D.C. No. CR-07-00032-SOM

MEMORANDUM^{*}

Appeal from the United States District Court
for the District of Hawaii
Susan Oki Mollway, District Judge, Presiding

Argued and Submitted June 20, 2008
Honolulu, Hawaii

Before: GOODWIN, RYMER, and IKUTA, Circuit Judges.

Kose Lasalle appeals his conviction for conspiracy to possess with intent to distribute 50 grams or more of methamphetamine, in violation of 21 U.S.C. §§ 841(a)(1), 841(b)(1)(A), and 846. We affirm.

^{*} This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

I

The district court did not abuse its discretion in accepting an additional conspiracy instruction. The court could extend the deadline on its own initiative. Federal Rule of Criminal Procedure 45(b). In addition, the court offered Lasalle a continuance, which he declined. Finally, the instruction correctly stated the law, as Lasalle concedes, so even if there were error, it is harmless.

II

The court was not obliged to set aside the verdict on the conspiracy count, as Lasalle contends, on the ground that the not-guilty verdict on the attempted possession charge shows that he never intended to participate in the conspiracy. His argument boils down to a complaint about inconsistent verdicts, which do not warrant reversal of a conviction. *United States v. Dota*, 33 F.3d 1179, 1187 (9th Cir. 1994). Apart from this, the evidence was sufficient for a rational jury to find the elements of conspiracy beyond a reasonable doubt. Among other things, Lasalle flew to Hawaii to join co-conspirators, and he made phone calls to arrange for overnight shipment of methamphetamine from California to Hawaii once he,

his brother and Wongsee had arranged through Blen Li for the package to be sent to the Davenport Street address.

AFFIRMED.